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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,639	02/12/2001	Andrew J. Onderkirk	51466USAID.009	8976

7590                    03/28/2002

Office of Intellectual Property Counsel  
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EXAMINER

CHANG, AUDREY Y

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Communication Re: Appeal**

Application No.	OUDERKIRK ET AL.
Examiner	Art Unit 2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1.  The Notice of Appeal filed on January 22, 2002 is not acceptable because:

- (a)  it was not timely filed.
- (b)  the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c)  the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d)  the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
- (e)  the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f)  a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2.  The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:

- (a)  the brief and/or brief fee is untimely. See 37 CFR 1.192.
- (b)  the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c)  the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

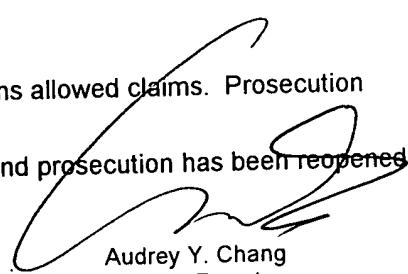
The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3.  The appeal in this application is DISMISSED because:

- (a)  the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b)  the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c)  Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d)  other: \_\_\_\_\_

4.  Because of the dismissal of the appeal, this application:

- (a)  is abandoned because there are no allowed claims.
- (b)  is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c)  is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

  
Audrey Y. Chang  
Primary Examiner  
Art Unit: 2872

Art Unit: 2872

*Remark*

- This Office Action is in response to applicant's appeal brief filed on January 22, 2002, which has been entered as paper number 10.

*Response to Amendment*

1. The reply filed on January 22, 2002 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the claims pending in the application are not finally rejected and no appeal may be filed until the claims have been finally rejected, (please see 37 CFR 1.191). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

*Terminal Disclaimer*

2. An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c). The attorney Robert Pechman is not of record therefore is not authorized to represent the applicant in front of the Office.
3. The filed terminal disclaimer on December 18, 2001 therefore is not proper.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 703-305-6208. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

Art Unit: 2872

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1637. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

*Audrey Y. Chang  
Primary Examiner  
Art Unit 2872*

A. Chang, Ph.D.  
March 26, 2002

